THE SLAVE-CATCHER

CAUGHT

IN

THE MESHES OF ETERNAL LAW.

BY ASA RAND,

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"Among my people are found wicked men; they lay wait, as he that setteth snares; they set a trap; they catch men."—JER. 5: 26.

The heathen are sunk down in the pit that they made; in the net which they hid, is their own foot taken."—PSALM 9: 15.

CLEVELAND:

STEAM-PRESS OF SMEAD AND COWLES.

1852.

INTRODUCTION.

This Tract contains an inquiry into the relations of the Federal Government to slave-holding, and to slave-catching in the Free States. The writer aims to examine and expose the unconstitutional and atrocious character of "the fugitive slave acts," so called, together with those judicial decisions and interpretations of the Constitution which are adduced in their support.

Are those acts just, and obligatory upon all? Are they to be established as a righteous and "final adjustment" of conflicting opinions and interests, and to be rigorously enforced by all the authority and power of this great nation? Is there a stable basis for the dogmas which are given forth from the legislative hall, the bench, the press, and the pulpit, concerning "compromises, a solemn compact, and constitutional guaranties" of slave-holding? Are citizens of Free States bound, in all good conscience, to sanction and aid oppression? to hunt and surrender fugitives, guilty of no crime? Is it "spurious philanthropy and genuine bigotry,"—is it "hypocrisy and baseness,"—is it "sedition and treason," *to refuse voluntary obedience to a law which tramples in the dust the inalienable rights of man?

Intelligent and law abiding citizens are accused of a wicked attempt to "triumph over and trample under foot all that is sacred and valuable in a government of law," *when they calmly and respectfully declare their purpose to obey God rather than man. We inquire, therefore, is the law righteous, and conformable to the Constitution; or is it a praise to evil-doers, and a terror to them that do well? *That* is the issue, to be tried before the people, and by the people of the United States. They will employ their inalienable right, to prove every act of their rulers and judges, "whether it be pure and whether it be right." And they will acknowledge no supreme, final, immutable law, but that of Him whose kingdom ruleth over all.

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* Quotations from Ex-Senator Dickinson, of New-York.

These acts demand thorough investigation by all classes, not only for the sake of fugitive slaves and the millions in bonds, nor yet for the sake of freedom, and freemen in Free States: but also for the purpose of understanding and exposing the true nature and genius, the character and bearings of this whole system and practice of slaveholding. The provisions of these acts are obviously a fair exponent of the system: and they are thrust before the Free States by the slaveocracy itself, aided by the authority of the general government. We are compelled to inquire and decide. We must either fall down and worship the idol, or renounce it and return to the worship and fear of Jehovah.

This Tract is designed to present the subject in a plain manner to the common mind, divested of technical and legal terms,so that he who runs may read, and every citizen may study his duty in reference to that legal despotism which is sweeping over the whole land.

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CHAPTER I.

Preliminary Remarks. Personal Freedom. Slavery. Righteous Civil Government. Subjection and its Limitations. Freedom in a Free State. Freedom in a Slave State.

Our Creator endows every human being in social life with freedom and all personal rights, equally with every other.

Every righteous civil government derives its just powers from the consent of the governed.

In forming a civil government, individuals do not relinquish one of their natural rights; but put them under the protection of the State. The State does not confer rights, or take them away; but pledges protection equally to all the subjects, and punishes only the lawless and injurious.

In civil society, therefore, a freeman has his right to life, to liberty, and to the pursuit of happiness without human dictation or control. All are equal in rights before the laws. Even the vilest malefactors are protected against injustice, cruelty and oppression.

Our national government is based on the moral law, and on those self-evident truths, concerning human rights, which our fathers proclaimed to the world in the day of their peril; truths, which their descendants have fearfully set at nought in the time of their unexampled prosperity.

All political rights and duties are based on moral principle. Rulers and subjects are equally under law to God in their several stations and relations. Even the unanimous consent of a whole people cannot make that right which is morally wrong.

A constitution liberal and just in the main, which contains one provision conflicting with the law of God, is at war with itself. A law to carry into effect such a provision, is constitutional, literally but is doubly unjust.

Whenever a government or nation sacrifices moral principle to "great national interests," it becomes unjust and wicked.

One evil deed can never justify another. The doctrine of precedents, therefore, applied to the unrighteous deeds of a people, is wicked and dangerous; leading them to perpetuate the greatest abuses and wrongs, and "increase unto more ungodliness."

A SLAVE is a human being held by another as property, as a beast, as *a chattel personal*, subject to the absolute command and control of his "owner." He cannot hold property, enjoy the family relations, or learn and do his Maker's will, except as he is permitted by the arbitrary will of his "master."

Slavery, being a compulsory deprivation of all rights, is the greatest wrong one man can possibly inflict on another living man.

Slaveholding is practised either with or without the sanction of civil laws; sustained, in either case, by might alone, contrary to all right.

That government which legalizes the enslaving or re-enslaving of unoffending men, practises the most flagrant *political despotism.* If our national constitution or laws sanction slaveholding in any way, that action corrupts the government and people, and threatens the subversion of our liberties and free institutions. It is therefore the imperious duty of every citizen thoroughly to investigate this subject. "Eternal vigilance is the security of freedom."

Slaveholding, or legalized oppression, is, strictly *a local or municipal institution.* No State of this Union can impose it upon another. The States cannot impose it upon the Union, nor the Union Union, upon one or all of the States. Of the States, some are

slaveholding, and others free. The difference between them should be clearly understood.

In a *Free* State, *every human being has personal freedom* under its constitution and laws, unless it has been forfeited by personal crime. *All* are entitled to liberty and protection; natives, immigrants, travelers, men of every color, kindred and condition. Some classes are deprived of the elective franchise; but all have personal freedom. A liberal constitution, faithfully carried out, would forever *exclude* slaveholding; or *abolish* the practice where it had existed, as it has done in England, and in seven of the thirteen original states of this confederacy.

In a *Slaveholding* State, *one class* of the people are free as in the Free States. *Another class* are held as slaves, as property, as chattels, and are practically deprived of all their natural rights. Yet, strange to say, the constitutions, even of the Slave States, assert in general terms the equality of human rights, and none of them expressly establish Slavery, or even define it. But they limit governmental protection to the favored class, and tolerate the practice of holding slaves. There, public sentiment and judicial courts allow the slaveholder to seize and recapture his escaping slaves wherever he can find them.

In a *Free* State, a colored person, even *a fugitive*, escaped from the house of bondage, is, *by the constitution and laws of that State*, as free as its governor or chief justice. He has all his natural rights, is protected by law as a freeman, and one that enslaves or re-enslaves him is accounted a kidnapper, or man-stealer. By escaping he has reclaimed his freedom and rights from the robbers; and no man may hinder his flight, or betray him to his pursuers. If he becomes an idle vagabond, he is liable to be put to labor for his own support.

In a *Slave* State, the child of a female slave is regarded as a chattel, a beast, property. He is deprived of every right, but life and has no legal protection. Escaping, he is deemed guilty of robbing his "owner" unpardonably. Any man may seize and return him, and civil officers are required to do it. One that helps

him to *escape* from slavery is punished as a kidnapper. A fugitive refusing to return and eluding pursuit, may be legally proclaimed an out-law, and shot down like a wild beast.

Now, by every fair principle, slave-*catching* is to be confined to the jurisdiction of the State which tolerates slave-*holding*. By the constitution and laws of a Free State, every human being in it is protected as a freeman. Therefore, a slaveholder cannot capture his fugitives in a Free State, *unless the nation re-enslaves them.* Has the nation undertaken this? Shall the sixteen Free States be open hunting ground to man-stealers, and the federal government become the most despotic on earth?

CHAPTER II.

Personal Freedom under the Federal Constitution and National Jurisdiction. No Slaveholding there allowed.

The Federal Constitution is based on the moral law; on the doctrine of human rights, equal and universal. It is as free and liberal in its fundamental principles, as is that of Massachusetts, or any other free state.

The preamble thus declares the objects and purposes of the government to be established:—"We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure to ourselves and our posterity the blessings of liberty, do ordain and establish this Constitution for the United States of America."

The first ten Articles of the "Amendments," and several others, are explicit safeguards of personal freedom, and of the equal rights of all "the people of the United States." The States then contained a million and a half of "persons" called slaves; but the Constitution has not a syllable that excludes them from the number of the "people" here intended, or from any of the rights here secured to "the people."

These articles and the preamble are tantamount to a "bill of rights," and have all the force of such a bill in the Constitution as fully as if a portion of the Constitution had been so entitled.

The second clause of the sixth article shows the supremacy and extent of the Federal Constitution. This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

If there are any articles or clauses, as is pretended, which recognise, sanction and protect slaveholding, they are antagonistic to the design and objects of the Constitution, and subversive of its fundamental principles. They ought, therefore, to be held null and void. They *must* be rejected, or the whole fabric will fall into ruin. A kingdom divided against itself cannot stand.

This constitution, in its free spirit, and explicit language, like the jubilee trumpet, "proclaimed liberty throughout all the land, to all the inhabitants thereof." It would have freed every slave in every State, "anything in the constitution or laws of any State to the contrary notwithstanding," if it had been carried out legitimately as "the supreme law of the land;" if Congress, and the States, and the "judges," and finally the people, had not first indolently suffered the power of the bill of rights to remain inoperative, and then, to cover the iniquity, adopted perverse constructions of the fundamental law.

Other remarks will confirm the position, that every slave in the Union was, by the letter and spirit of the Federal Constitution, as fully entitled to all human rights, as was George Washington, or Thomas Jefferson.

The Constitution was established by all "the people;" for all "the people;" to "establish justice, and secure the blessings of liberty to themselves and their posterity," without exception or distinction of classes or races. If exception or distinction were intended, it must have been made in explicit terms; but it is not in any terms.

The instrument no where employs the words, *slave*, *slaveholder*, *owner*, *master*, or any other, implying that human beings can be held as property, or that such "property" can be secured or recognised by law. Mr. Madison, a slaveholder, said in convention, it would be "wrong to admit in the Constitution the idea that there could be property in man." The convention acted accordingly. Yet statesmen of our day dare affirm in the face of the nation, that "whatever the law declares to be property, is property;" that this is "the only species of property that is protected by the Constitution," and that "two hundred years of legislation has sanctioned and sanctified negro slaves as property." But the first syllable of such a sanction is not found in "the supreme law of the land" It no where sanctions the practice, or gives Congress the power to do it.

But it is said, "the power is *implied*," because there were known slaveholding *interests* at that time, of vast extent, and Congress is bound to protect the interests of all classes in every section. I reply, the government is to protect human *rights*, *first*, and *lawful* interests, *subordinately;* but interests in "the bodies and souls of men," *never*, *never*. It shall not promote the interests of one class sustained by injustice, extortion and robbery, by utterly sacrificing all the interests and all the rights of other men.

Ten thousand times have we demanded evidence of the alleged "constitutional guarantees of slavery," the "compromises," the "solemn compact," which are thrust before us every day, and which have bound the consciences of our northern representatives in iron chains. We say, where is the contract? How is it written in the bond? Not a word of pledge has ever been produced. And now we are told of "the *intentions* of the framers, a tacit consent, a silent but general understanding." Oh, folly! Thus it is that the strongest guarantees of human rights are brushed away as a spider's web; while vested wrongs are "graven as with iron pen in the rock forever," and revealed to us by the ghosts of our departed fathers. But we have nothing to do with the unwritten intentions of the convention. We are bound only by what they penned, and "the people" adopt-

ed. The Constitution is not obscure, neither does it "palter in a double sense." *Read* it; *ponder it.* You will find it does not attempt to "establish justice" or to "secure the blessings of liberty" by perpetuating slavery, an acknowledged curse.

It is also confidently asserted, when occasion requires, that the control of existing slavery was not intrusted with Congress, but was "*left with the States* themselves," within their respective limits. Again we ask, where is the agreement or compact to that end? Not in the Constitution, or any public record. It is true, that the Constitution of any and every one of the thirteen old states, righteously carried out, would have removed slaveholding from its bounds at once; and the Federal Constitution, applied and enforced, would have removed it from them all. It is also true, that the States *have* taken action independently of Congress; seven to abolish it; and six to perpetuate and secure it, till they defy Congress, the North, and the whole Union. Still, the Federal Constitution, though inoperative as yet for emancipation, retains its primitive liberality. It is "the supreme law of the land," having power "to secure the blessings of liberty" to all "the people." *The power remains;* and when the public mind shall be freed from a monstrous delusion, all will declare, that the supreme law is the death-warrant of slavery. Then will they see the daring presumption of those statesmen, whether of the highest or the lowest rank, who deny to Congress and the courts, power to abolish Slavery where it exists, but say they are solemnly bound to sanction and protect it.

Others, conceding to Congress the constitutional power to abolish slavery, especially in United States territories, claim also for them the power to establish or introduce it in free territory. Ridiculously absurd. A legislature may punish arson, robbery and murder; may they also license and reward them? They may protect churches in the peaceable exercise of their rights; can they therefore establish a State religion and disfranchise dissenters? Now the nation declares the foreign slave-trade to be piracy; can it therefore again approve it as a lawful and honorable business?

We may here remark, in passing, that the bill of rights in the

Federal Constitution has been violated, and the Declaration of Independence trampled on, in many ways, by the national government. Congress have done this, either by a sheer usurpation of power, or by a perversion of powers given for righteous and constitutional purposes. The judicial courts and executive administrations have given the same false constructions to the Constitution, while a majority of the people have acquiesced. "So they wrap it up"

But a fair construction of the Federal Constitution, establishes these three conclusions:

First, *Wherever the national government has exclusive jurisdiction*, slavery cannot legally exist without a palpable violation of the Federal Constitution.

Second, *Within a Free State*, where the State and national governments have concurrent jurisdiction, *both* constitutions secure personal freedom to all the people resident there.

Third, *In a Slave State*, also under concurrent jurisdiction, the State government sustains slavery, and thus sets at nought "the supreme law of the land." The responsibility is assumed by the State; and the Federal *Government*, by its frequent connivance, is partaker in the guilt. Still, the Federal *Constitution* is innocent of the deed.

There are, then, sixteen of the United States, in which *slaves* cannot be *held* under *any* existing constitution or law. We must next inquire, whether they can be constitutionally *caught*, where they cannot be *held*.

CHAPTER III.

Slave-catching. Moral Principles pertaining to the Business.

The business of recapturing and returning fugitive slaves, is it lawful and right? Many contend that it can be transacted legally constitutionally, righteously and devoutly. That freemen are under solemn obligation to do so, as occasion requires. This I deny, and shall appeal "to the law and the testimony."

First, however, it may be useful to consider *the moral character* of the act itself.

1.—A slave is a man, a human being. By our national law and the laws of God, he has an equal right to liberty with his enslaver. Every man that has a soul will admit this; and they that have none cannot be reasoned with.

2.—All sober slaveholders admit, that men are made and kept slaves "by might without right."

3.—Every slave has an inalienable moral right to his freedom, whatever earthly power may wrest it from him. He has, therefore, a perfect right to take his freedom by flight.

4.—He owes his master nothing; no love, or thanks, or obedience, or service; nothing, but to let him live, and repent, and make what poor restitution he can to the injured.

5.—He is under no obligation *to the State* to remain in bondage. He owes no allegiance in any form to the State or nation, which has never protected his rights, but has aided his "master" in robbing and oppressing him.

6.—No human being or civil power can possibly have a moral right to originate, or continue, or renew the enslavement of a man. Our nation punishes the "pirate," who seizes a man in Africa and makes him a slave in America. It is a *more* atrocious act to thrust into bondage a man, who has braved untold hardships and perils to regain his liberty.

7.—The deed is not less atrocious and damning for being done by authority and according to legal forms.

8.—Men attempt to justify slave-catching on the ground of *necessity*. They say, "It is a hard case, truly, and we pity those who are delivered up, very much; but it is *necessary*, to protect the property of our slaveholding brethren, and preserve our glorious Union."

> "So spake the fiend, and with *necessity*,
> The tyrant's plea, excused the devilish deed."

9.—Whoever, at the South or the North, denies to the slave his inalienable right to take his liberty and keep it unmolested, denies his own humanity, and knocks away the platform on which he him-

self stands as a freeman among men. If my brother in bondage has not a God-given right to liberty, then neither have I, nor has the highest potentate in the land.

10.—"Thou shalt not deliver unto his master the servant who is escaped from his master unto thee. He shall dwell with thee, even among you in that place which he shall choose, in one of thy gates where it liketh him best. Thou shalt not oppress him." *Deut.* 23: 15, 16. Jehovah has settled this matter. Has my country given power to the slave-catcher to return the escaped one to a servitude a thousand times more rigorous and hopeless? "O my soul, come not thou into their secret; into their assembly, mine honor, be not thou united."

CHAPTER IV.

Slave-Catching in a Free State, under the Constitution and Laws of the Union.

The right to recapture fugitive slaves is said to be conceded by the Constitution; it is sustained by acts of Congress, and by the judicial and executive departments. The provisions on the subject must be briefly stated.

The pretended "Constitutional compact" is found in Article 4th, second section, third clause:—"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due." On this clause alone are professedly based all the laws and decisions which sanction the practice of catching slaves.

The operative "laws in pursuance of" this clause of the Constitution, are certain judicial decisions, and the two Acts of Congress passed in 1793 and 1850, the latter being additional to the former.

Fugitive slave-laws, or legal slave-catching powers and facilities, are *necessary only in a Free State;* because, where slaveholding

is regarded as legal, no objection is made to the recapture of a fugitive slave by his pursuer. These acts, therefore, are made solely to compel the Free States to aid the slave-catcher. And their injustice and oppression are the more intolerable, because they oblige a people to admit and favor an abomination which they themselves had put away.

The acts of Congress provide courts for the trial of a fugitive. But it is not deemed *necessary* that a pursuer employ any legal process whatever. The Supreme Court has said, that his slave is his *property*, and he *may take* it wherever he can find it in the United States. Many do so, and they violate no law of Congress. Free men of the East, and the North, and the West, do you know that your whole domain is legally made open ground for the mid-night man-stealers, like wolves, stealthily "ravening the prey to shed blood, to destroy souls, to get dishonest gain?"

The act of Congress of 1793, which stands unrepealed, authorized *State* magistrates and officers to act in these fugitive cases. The Supreme Court declared this part of the act unconstitutional, because Congress had not power to invest *State* courts with authority. Yet the same court "entertained no doubt that State magistrates *may*, if they choose, exercise that authority, unless prohibited by State legislation." A very facile method, truly, of furnishing legal helpers for the oppressor. The result is, that some state legislatures forbid such action by their magistrates; some are silent; and others, I believe, require it of them. Thousands of State magistrates would spurn the work with contempt. Others perform it with alacrity, too patriotic to regard the cry of the innocent.

The acts of Congress prescribe also two legal methods of securing escaped slaves, either of which a pursuer may adopt when he cannot steal his victim away slily, or when he has been baffled in such an attempt by opposition. The most sure and summary method is that prescribed in the tenth section of the act of 1850. He may prove his *ownership* of a slave and the fact of his *escape* before a State court *in his own* State. Then, producing a record [illegible] e udge or commissioner in the State where he

finds the fugitive, and there proving the *identity* of the person arraigned as his slave, he is entitled to a certificate of delivery. The court is obliged to grant it, if it regards the act.

The other prescribed method is this. The claimant may seize and arrest his alleged fugitive, with or without a warrant and marshal; take him before a United States judge or commissioner; prove to his satisfaction the ownership, escape and identity; and receive a certificate, authorizing him to take the man back to bondage without molestation. He must pay moderate fees and expenses, and a special fee of five dollars to the commissioner if he loses his prey, or ten dollars if he gets him.

If he then declares before the court that he fears a rescue, the court will order the marshal to provide a sufficient force, and convey the slave to his owner's residence at the expense of the United States.

Other provisions of the acts of Congress will be named when we come to remark on their unconstitutionality. Other considerations are appropriate here.

This clause of the Constitution, *if it does* authorize slave-catching in a free State, is in itself a public confession that the Federal Constitution is liberal and just in its bill of rights; that slaveholding is sectional and not national; that it is purely a local or municipal institution, necessarily confined to the jurisdiction of the State which gives it legal sanction. If slave-*holding* were in any sense *national*, there would have been no need of this special and exceptional clause in favor of slave-*catching*. For, surely, slaveholding covers slave-capturing. If slaves could be *held* in Ohio or New York under the federal government, a Virginia slaveholder could *reclaim* his fugitive slave in either.

This clause, so interpreted, is also a confession that fugitive *slaves are not criminals*, or fugitives from justice, and cannot be legally pursued and reclaimed as "persons accused of crime." The return of escaped persons of that class is provided for in the next preceding clause. Art. 4, sec. 2, clause 2. Accordingly, runaway slaves are generally claimed as "persons owing service or labor"

Maryland, indeed, has recently enacted, that they shall be deemed criminals, and be claimed under the second clause; thus renouncing their dependence on the third clause, on which have heretofore hung all slave-catching laws and prophets. But Maryland cannot at once incorporate this principle into the civil code of the Union.

Concerning the acts of Congress we may here remark, that they extend this provision to the *Territories;* whereas, the Constitution expressly limits it to *States.* In so far, therefore, the acts are void. Slaves cannot under the Constitution be pursued *into* a *free* territory, whether Congress have organized a government there or not. They cannot be pursued *from a slaveholding* territory or the District of Columbia; for slavery cannot be legalized in either, except by act of Congress, and Congress have no constitutional power to sanction it.

CHAPTER V.

The Acts of 1793 *and* 1850, *unconstitutional and void.*

Many eminent lawyers and jurists have declared the acts of 1793 and 1850, especially the latter, to be unconstitutional in several respects. Lysander Spooner, in his "Defense of Fugitive Slaves," has shown this by a learned, logical, unanswerable exposition; as he had before proved "the unconstitutionality of slavery" everywhere in this country, in a work which might enlighten the most eminent of our jurists, if they would but study it. In presenting this part of the subject in a plain familiar way to the common mind, I shall take the liberty to quote in substance his "seven particulars," advising every reader to ponder his full argument in his own work.

1.—The acts *deny* to the alleged fugitive slave *a trial by jury,* that great palladium of liberty in every righteous government; a right which the Federal Constitution expressly secures to every "person" in "all criminal prosecutions," and "in all suits at com-

mon law where the value in controversy shall exceed twenty dollars." Mr. Webster affirms that "the reclaiming of a slave is not a criminal prosecution," and is "not a suit at common law." Mr. Spooner shows, by quoting the Supreme Court itself, that it *is* "a suit at common law." A slaveholder would not come for a slave valued below twenty dollars. The judge, therefore, who "delivers up" a victim without a fair trial by jury, tramples the Constitution in the dust.

2.—Mr. Spooner shows at length that *the Commissioners*, authorized by the act of 1850, *are not constitutional tribunals, or judicial courts.* Horace Mann has also proved it unanswerably.

A commissioner, therefore, says Spooner, "is in law a mere kidnapper, hired and paid by the slave-hunter; and every body has a right to treat him and his decisions accordingly."

3.—The tenth section of the act is unconstitutional, because it requires a federal judge or commissioner to enforce the judgmen of *a State Court* on two out of three essential points of testimony, (as we have before noted in chapter 4;) whereas, the Supreme Court evidently decided correctly, when they said Congress could not confer judicial power upon a *State* court. That was a right judgment, although the same *judicial* court assumed *legislative* power, and said State judges might exercise the power of a federal court in certain cases "if they choose." Posterity will be astounded when they read our perversion of constitution, and law, and equity.

4.—The act of 1850 is unconstitutional, in that it *allows the whole proof by the claimant to be made by affidavit alone;* which is wholly an *ex parte* method, and denies to the defendant any opportunity to confront and cross-examine witnesses. Congress has also usurped judicial power in violation of the Constitution, by declaring that a transcript of an affidavit made in Arkansas, produced by a perfect stranger before a commissioner in Vermont, "shall be held and taken to be full and conclusive evidence" of ownership and escape.

Then, the claimant satisfying the commissioner by *affidavit*

the identity also, the trembling victim must be delivered up without a hearing. If a judge of his own will were to decide a case as this act *requires* him to do, "he would be impeached."

5.—The act provides :—"In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted;" thus giving one man the power of enslaving the other *by his own word alone*, while the court is *forbidden to hear the accused* in his own defence. A most unconstitutional, unjust, tyrannical enactment.

6.—The act is unconstitutional in that it gives a claimant, in addition to these extraordinary aids, the power to force through the sham *trial with precipitation and secresy.* The act requires, when an alleged fugitive is arrested, that he shall be "taken *forthwith* before such court, judge or commissioner, whose *duty* it shall be to hear and determine the case of such claimant *in a summary manner.*" A mere tool of despots, called a commissioner, may issue a warrant for the sudden and secret arrest of a freeman, *accused*, no one knows or asks *by whom*, of being a runaway slave. Or the prowler may arrest him on a pretended charge trumped up for the purpose, or *without* warrant or charge. The bribed commissioner may sit in a secret chamber, at the mid-night hour, (well befitting the deed of darkness.) forthwith declare himself "satisfied" with the *ex parte* testimony of the claimant, and surrender the innocent victim to his clutches. He *shall* decide in *a summary manner;* he *shall* NOT *admit* the testimony of the accused. Thus the whole business may be finished, and the poor man be deprived of the aid of witnesses, counsel and friends. Should a court decide an action of debt for a few dollars in this partial and "summary manner," he would be universally execrated. But thus has human liberty, in several instances, been already sacrificed. Does the Constitution of my country allow the Star-Chamber Court? Has my government established by law the papal inquisition?

7.—In violation of an explicit clause of the constitution, Art. 1, Sect. 9, Clause 2, this act *suspends the writ of Habeas Corpus*, by which alone the proceedings of a "court, judge, or commissioner," could be reviewed and revoked. I know that the Attorney General

has assured the President, that this act does *not* suspend the writ. And it does not, perhaps, prevent a resort to this measure during the secret and "summary process" before the commissioner. But when his decision is given, the law makes it final and irreversible by any earthly power. His certificate of condemnation and delivery is made conclusive of the claimant's right to remove the accused to his own State. And the act declares, that the certificate "*shall prevent all molestation of such person* (the claimant,) *by any process issued by any court, judge, magistrate, or other person, whomsoever.*

Besides these "seven particulars," in which Mr. Spooner shows by conclusive arguments the acts in question to be unconstitutional, I think there are several others, each of which will condemn them for the same reason.

8.— *Congress is neither required nor empowered to pass any law* to secure the return of fugitives escaped from slavery. They have, therefore, assumed power without a shadow of authority, and their acts are void, the dictum of the Supreme Court to the contrary notwithstanding. There are three considerations to sustain this position. (1.) The Constitution makes no mention, in any manner, of the return of fugitive slaves, or even of their existence; a point to be shown hereafter. (2.) Such power is not named among the powers expressly conferred upon Congress by the constitution; and such laws are not "necessary and proper for carrying into execution" any "other power vested by the Constitution in the government of the United States, or in any department or officer thereof." Art. 1, Sect. 8. (3.) This famous clause, the only pretended constitutional authority on the subject, whether it have any reference to slaves or not, leaves the whole matter *with the States* respectively. The whole of Article 4th, consisting of 4 sections, relates to States and Territories, their rights and obligations, &c. The first, third and fourth sections provide expressly for legislation by Congress, to carry into effect the provisions named in those sections. The second section has *three clauses, all relating to persons going from one State to another.* The first secures to "the citizens of each State all the privi-

eges and immunities of citizens in the several States;" a provision which is violated openly by the laws and authorities of South Carolina, and the sovereign State of Massachusetts seeks redress in vain for herself and her free citizens. Her authorised agent, quietly preparing to appeal to the judicial tribunal, is expelled from the State by the legislature and people. Yet I know not that legislation on that subject has ever been demanded or expected of Congress. The second clause relates to "a person charged in any State with crime, who shall flee from justice, and be found in another State." He is to "be delivered up, on demand of the Executive Authority of the State from which he fled," that he may have an impartial trial "in the State having jurisdiction of the crime." The third clause is that in question before us, relating to the delivering up of "persons held to service or labor," who have escaped into another State. It leaves the matter wholly to the States and to each individual claimant. It does not lay any charge, or confer any authority, either upon Congress or the Chief Magistrate. It looks to no legislation, state or national. Judge Hoadley, in a *Habeas Corpus* case at Cincinnati, Oct. 1851, had occasion to examine this question. He argued, that these three clauses were thrown together in one section, because, being *simply articles of compact between States*, they naturally associate together;—that they are all separated from the three other sections of the same article, because, although the whole article refers to matters relating to States and Territories, the other three sections expressly refer to *national* duties and *national* legislation, *this second section has no reference to national interference in any way.*

He concludes, therefore, that *it belongs to the States, and not to the Federal Government*, to secure to migrating citizens their equal rights, to return for trial fugitives accused of crime, and also to deliver up fugitives from labor. Judge Hoadley's argument is lucid and convincing, leading to the conclusion that, "in legislating this clause into execution, Congress has exceeded its proper powers." He also represents Chancellor Walworth of New York and Chief

Justice Hornblower of New Jersey as having given the same opinion, and two Judges of the Supreme Court of Ohio as having publicly avowed their concurrence with similar views. Even a distinguished Senator said, "He had always been of the opinion that it was an injunction upon the States themselves." Yet *he* was willing that Congress should *assume* power to make the most stringent law. "To the fullest extent" he would sustain the vested rights of his dear brethren, the oppressors of God's poor. Such are the rulers of this nation. Such are the principles on which they base legislative action.

9.—An actual fugitive from slavery, being in a free state, is a "person," a free man, a citizen, by the constitution of that State and that of his country also. Now the Federal Constitution provides, that "*no person*" *in the United States*, "*shall be deprived of life, liberty, or property without due process of law.* Amendments, Article 5. That is, a person arraigned must have an open, fair, impartial trial, according to righteous laws and the established principles of jurisprudence in civilized nations.—Again, the same article and the 6th provide, that, "in all criminal prosecutions the accused" shall not "be held to answer unless on a presentment or indictment by a grand jury;" "shall enjoy the right to a speedy and public trial by an impartial jury;"—shall "be informed of the nature and cause of the accusation;"—shall "be confronted with the witnesses against him;"—shall "have compulsory process for obtaining witnesses in his favor;"—and shall "have the assistance of counsel for his defence." Not one of these rights is secured by the acts of Congress to a person accused of being a fugitive from service. A commissioner may fulfil the letter and spirit of the acts, and yet deny them all, as not a few have done. The guiltiest murderer or pirate must have a fair trial; but these solemn guarantees of freedom and righteousness are scouted, when the "liberty" of the innocent fugitive is demanded in sacrifice to our American Moloch.

10.—The infliction of "*cruel and unusual punishments*" is prohibited by the Constitution, Amendments, Art. 8. By the act

of 1850, freeman may be reduced to slavery, who has committed no legal offence whatever; and this is a most "cruel punishment," one "unusual," unparalleled under any honest government. Here several important facts must be noted.

(1.)—Is not the fugitive delivered up to a most horrible punishment? Such a doom is often more dreaded than death. A Southern judge has recently declared on the bench, that slaves convicted of crime, prefer imprisonment for life to their condition on a plantation. Is not freedom dear to man? Is not personal bondage a bitter cup? Ask him who has "no hope" of redemption from it except in the grave. Ask him who has braved the terrors of death and a pursuer's vengeance. Ask Patrick Henry. Ask any man but a slave-catcher, or his official jackall, or his Northern voluntary blood-hound. Ask your own heart.

(2.)—But *the slave has committed no offence* by running away. True, the slaveholder at home deems his offence unpardonable. If he catch him there, he flogs him within an inch of his life. But he dare not bring that charge in a Free State; and when conscience speaks, he himself knows it is false. Escape is no offence by the moral law, nor yet by positive law. Neither by the Federal Constitution and laws; nor even by those of a Slave State. For "where no law is, there is no transgression;" and a Virginia Senator in Congress said; "*I am not aware that there is a single State in which the institution is established by positive law.*" Accordingly, no legal instrument is allowed to *call* escape a crime; neither the statute, nor the writ, nor the certificate of condemnation and delivery. And we have seen that the return of persons "charged with crime," is quite a different matter by the Constitution, provided for in a separate clause. No, they drag away their victim to the most "cruel and unusual punishment," with a confession on their lips that he has done no evil "They gather themselves together against the soul of *the righteous*, and condemn the *innocent* blood."

(3)—Thus the destruction of innocent men is accomplished by *a series of legal fictions*, a measure which adds to the flagitiousness

and meanness of the deed. As we have seen, there is a non-descript court, a mock trial, a fearful sentence and punishment, where criminality is neither proved nor charged; and all according to a law for this particular case specially made and provided. The whole is a subtle device, to secure the ruin of a freeman *in fact*, without outraging justice and equity *verbally*. So Mr. Webster could say, it "is not a criminal prosecution," because *in words* it is not. Just as well might he say, it would not be a criminal prosecution, if a man had a trial on an action of debt, and were doomed to the gallows as a murderer.

Now, therefore, what sort of action or trial is it? The same gentleman represents it as *a mere preliminary examination*, to secure the transfer of the fugitive to the state whence he fled, for trial there, where people better understand the condition of slaves, and where the courts are very impartial. He says expressly, "the courts [federal] of the State to which he has fled are not to decide that, in fact, or in law, he does owe service to any body." What then? Oh, only that he is a man, of whom somebody says, he owes service to somebody; and that "he is only to be remitted for remitted for an inquiry into his rights" in the Slave State.* Another United States Senator† "mightily convinced" the people of Chicago that a jury trial in a Free State is of no sort of consequence, since "the highest judicial tribunals in the land have always held that a jury trial must take place in the State under whose jurisdiction the question arose, and whose laws were alleged to have been violated."—Now it is hard to say which is greater, the wickedness of these assertions or their impudence. Did these distinguished men and Presidential aspirants really think they could so impose on intelligent freemen? What are the facts? Neither of the acts of Congress requires a re-hearing, or so much as hints at one. The certificate of delivery does not refer to such a trial, but "shall prevent all molestation" of the claimant in taking his victim

* To citizens of Newburyport.

† Mr. Douglas.

back to his domicil. No, when delivered up, he is a doomed man and no earthly power can save him without the tyrant's consent. The certificate of a commissioner is like the laws of the Medes and Persians, "which altereth not,"—"a finality." To promise the condemned man a jury trial in a Slave State, is a cruel mockery of helpless misery; as well promise to a condemned malefactor a review of his case, or an executive pardon, after he is hanged. This is another of the legal fictions, by which innocent men are doomed as criminals, and the plain language of the Constitution evaded.

11.—The act of 1850 blots out the 8th article of Amendments to the Constitution, by its inflictions upon our own native white citizens. "Excessive bail shall not be required, *nor excessive fines imposed*, nor cruel and unusual punishments inflicted." The act provides, that a District Court, by indictment and conviction, may lay a fine of $1,000, and six months imprisonment, on one who shall "knowingly and willingly obstruct, hinder or prevent a claimant from arresting a fugitive, either with or without process;" or who shall "rescue, or attempt to rescue, such fugitive from the custody of the claimant, when arrested;" or who shall "aid, abet, or assist such person [fugitive] to escape from such claimant;"—or who "shall harbor or conceal such fugitive, so as to prevent his discovery and arrest." "For either of said offences," such, freeman, is your doom. And if the claimant lose his prey through your aid, you shall "forfeit and pay, by way of civil damages, to the party injured by such illegal conduct, the sum of $1,000 for each fugitive so lost." No express fine is imposed by the act on one who refuses to obey the officers, when they "call to their aid the bystanders, or *posse comitatus*", but it "commands all good citizens to aid and assist in the prompt and efficient execution of the law," under the pains and penalties due to such refusal in other cases.

Can human authority make an act of common humanity a crime? Even if one of these acts is "illegal conduct," is it not threatened with an "excessive fine," an "unusual punishment?" Shall gov-

ernment imprison you or me for doing an act, neglect of which would shut us out of heaven at the last day?

It would seem also that *a marshal* is liable to an "excessive fine," or "cruel and unusual punishment;"—$1,000 to a claimant for "refusing to receive a warrant or other process when tendered, or neglecting to use all proper means diligently to execute the same;" and "the full value of a fugitive" that may "escape whilst at any time in his custody, whether with or without the assent of such marshal."—I would not object to this punishment for *the sake* of marshals alone. If men will ignobly assume an obligation to do barbarous deeds, they may bear the penalty for neglecting them. I am, however, unwilling that my country should require of its officers deeds at which humanity shudders. Besides, Congress would punish an officer for an act that is done "without his assent." On what principle is this legislation? Why, truly, on the principle that the alleged fugitive is to be kept in custody at every expense and every hazard. Therefore the agent of the government is threatened severely, to compel him to sleepless vigilance and the employment of abundant force. It is a tyrannical measure; and the *instruments* of a tyrant's will not unfrequently experience the rigor of his arbitrary dominion.

12. I name one more violation of the Constitution. Amendments, Art. 4: "The right of the people to be secure in their persons, houses, papers and effects, against *unreasonable searches and seizures*, shall not be violated;"—and search warrants are not to be used or granted without a vigilant regard to liberty and personal rights. A stranger *from the South*, however, may "seize" whom he will, "with or without a warrant," by day or by night, openly or stealthily, the United States' authority and power sustaining the deed. I will not stay to *prove* that such a "seizure" is "unreasonable." I only ask "the people" of every free state to bear in mind that they, their neighbors, and wives, and children, are *by law* liable every night to such "searches and seizures"; and they are required

to submit, in order to sustain the vested "rights" of slaveholders. Will ye *do* it?

We call the act of 1850 unconstitutional; yet who has begun to consider *how many essential principles of freedom and righteousness it sets at nought?* But "if the foundations be destroyed, what can the righteous do?"

CHAPTER VI.

The prevailing construction of the Constitution a false one. No National "guarantee" for the return of fugitive slaves. No "Fugitive Slave Act" in the United States.

Thus far I have written *on the assumption* that the Constitution does require that slaves, escaping into Free States, shall be delivered up; and have proved, even if it be so, that the acts of Congress violate the Constitution in many ways. That construction has been generally admitted both North and South; but is not sustained by common sense, or by the established rules of interpretation. On the contrary, I claim that the famous *clause of the Constitution has no reference whatever to escaping slaves;*—that all the established *rules of interpretation require us to restrict the meaning* to hired laborers, clerks, apprentices, minor children of freemen—whatever *persons* are *free*, yet are "held to service or labor;" and that *all legislation or action* based on the prevailing interpretation *is without the shadow of support* from the fundamental law. Reasons for these positions follow.

1. *No language is employed which constitutes a legal description of a slave.* Not a single word which pertains distinctively to the condition, or relation, or disabilities of personal compulsory servitude; such as, *slave, slaveholder, owner, property in man, belonging to a master*, &c. The terms are simply these: "person held to service or labor under the laws" of a "State."

2. *The members of the Convention well knew what terms to use*, technical, legal, or conventional, to express their meaning explicitly on every subject. But they employed none pledging the States to deliver up fugitive *slaves*, or to restore that "species of *property*."

3. *It became them to be very explicit*, if they intended to secure a privilege so abhorrent to humanity, so diametrically opposed to the bill of rights and the Declaration of Independence.

4. Indeed, *statutes, legal instruments, and above all the fundamental law ought ever to be written*, as this Constitution *is, in the most unequivocal language possible.* It is also held by all, that such instruments are to be understood according to the known, acknowledged, well-established use of terms;—that if any clause admits of two constructions, that construction must be taken which is *most favorable to freedom, justice and equity;*—that that construction is to be *utterly rejected* which is evidently *against* natural justice and humanity, or which subverts the Constitution itself in any fundamental principle or leading object.—Tried by such rules, the clause in question utters not a syllable respecting slaves.

5. The debates in Convention sometimes related to such a claim as slaveholders now set up; but history shows that *the members* generally *shrunk from any recognition* thereof in the Constitution, and that the chattel principle was nowhere asserted, implied, recognized, or alluded to in that instrument.

6. The terms "persons held to service or labor," as Spooner clearly shows, *include other persons and classes*, if they include slaves at all, and therefore they *do not distinguish or designate slaves*; and, as a matter of fact and of law, human beings are claimed and held, in a Slave State, not as servants, but as chattels or property. The pretended title can be no other under the Federal Government; but this clause does not assert or imply such title.

7. The word "person" is employed in the Constitution; and that *is never applied to a thing*, a chattel, an animal, or a slave as such; but only to a human being, or other intelligence. In figurative language we personify even inanimate things, and apply the

personal pronouns to the sun and moon, and to animals. But in legal and common language, a "person" is a human being. In this clause, therefore, it can refer only to one of "the people," by and for whom the Constitution was made, to secure to them the "blessings of liberty;" one from whom, however, in some lawful way "service or labor is due." Thank God, our national law does not so much as imply, that the chattel principle can ever be recognized in our national legislation or jurisprudence.

8. This liberal and just meaning of the word person is justified by the fact that *such is its meaning and use in every other part of the Constitution.* Everywhere else it evidently refers to the free, to men, to "the people of the United States." In this clause, therefore, it cannot be understood to designate a chattel.

9. Even the act of 1850, spoken of universally as the "Fugitive Slave Act," *makes no mention of a slaveholder*, a slave-owner, or the property he has lost;—no mention of *a slave that has escaped.* Throughout the act, the pursuer is denominated a *claimant*, or *a person to whom service or labor is due.* The other party is called *a person owing service or labor, a fugitive from service or labor, a fugitive*, or merely, *a person, a fugitive*, and *a fugitive person.* The word person is applied as freely to the defendant in the suit as to the claimant, and to the marshals and their assistants. There are but two phrases in both the acts of Congress, which can possibly be understood as designating slaveholder or slave. In *the titles* of both the acts, we find, "persons escaping from the service of their *masters*." But the word masters applies to many who are not slaveholders; and does not designate a slave-owner. By the additional act, one who aids a fugitive to escape from his claimant shall pay, "by way of civil damages to the party injured, $1,000 for each fugitive so lost, to be recovered by an action of debt." Here is a squinting at a loss of property. This must, however, have been an oversight; for, after all, the man has lost only a "fugitive person," whom the law does not say or imply he ever owned as a chattel.

Again, I remark, it is in vain to plead that Congress, in framing the law, *meant* slaves and slave-owners. They have not *said* it; and their language must not be tortured to make out a meaning they dare not express. I say, "dare not;" for it would be too glaringly inconsistent and absurd, to pervert the language of the Constitution in the acts pretended to be passed "in pursuance thereof." The language of these acts, and of all the legal instruments it provides for, is in harmony with that of the Constitution; and the fire of slave-catching has no where singed the hair of its head.

We come, then, to these four conclusions:

(1.) There is, in the Federal Constitution, *no provision* that either requires or authorizes *the forcible return to bondage of fugitive slaves.*

(2.) There is *not in being in the United States, a "Fugitive Slave Act,"* providing for the recapture of slaves. I do not say, with some, that an unjust, unconstitutional act is not law; or that slaveholding and slavehunting cannot be legalized; for the throne of iniquity "frameth mischief by *a law.*" But I do insist that these acts do not, *even in their* TERMS, relate in any way to the catching of fugitive slaves. And we have no act that does so relate.

(3.) The fugitive slave law, so called, being unconstitutional, "the delivery of persons into slavery under color of them," says Mr. Spooner, "is a crime," and the State magistrates, on application to them, are bound to place the officers of the United States under bonds to keep the peace in this particular."

(4.) The only right and safe course on the whole subject, is, *to redeem our courts, and statutes, and Constitution from unparalleled perversions and abuses.* This work the people must do, demanding the faithful concurrence of such as may be set in authority. To effect it, the people must open their eyes on astounding facts and fundamental poinciples; facts, to which we have become indifferent by long familiarity;—principles that are seldom thought of, because

like the vital air and the blessed sunlight, they are all about us and ever with us.

CHAPTER VII.

Unparalleled Atrocities. General Remarks. Modes of Resistance and Relief. Appeal to the Friends of Liberty and of Man.

In the summer of 1851, an intelligent nobleman in the heart of Russia taunted a clergyman from the United States on the atrocious character of our fugitive slave act, saying, "You can find nothing in the legal code of Russia, nor in the decrees of her Emperors, equal to that barbarous law." And truly, how can an American citizen lift up his head among the despots of Europe? For what nation ever legalized robbery, man-stealing and murder? What nation ever apointed official agents to do the deeds of rapine for reward, and doomed them to cruel punishments for sparing the innocent? What government ever demanded that "all good citizens" become lawless banditti and midnight marauders, denouncing those as traitors to their country who refused to enlist?

Consider, for a moment, some of the atrocities which this act allows, a few of the enormities of wickedness it solemnly requires the authorities and people to commit. (1.) *It subjects the actual fugitive from bondage to the power of the most infamous man-stealer,* soul-driver, or perjured person, who may seize him by stratagem or violence, and have him back to hopeless bondage. (2.) It grants to the man-stealer in this pursuit, *the aid of this whole nation;* the aid of our statutes, our courts, our treasury, together with the executive, naval and military power of this mighty nation. And the National Legislature demands that "all good citizens" shall say amen. (3.) It offers to slaveholders, facilities, helps, inducements, and therefore strong temptations, to pursue those whom otherwise they might have suffered to go free. (4.) It renders every man

woman and child in a Free State, black or white, liable to be kidnapped and dragged into bondage. The act knows no color or condition. It puts it in the power of any stranger, a villain, to swear that any person whom he chooses was and is his slave, and a commissioner must be satisfied and deliver him up in a summary manner. Say not, "this will never be done." It *has been done*, gentle reader, and while you sleep, your son and daughter may be doomed to hopeless bondage according to law. Let every freeman be cautious about traveling where he is personally unknown. The time has come when we must all carry certificates of freedom in our pockets, and take heed lest they be stolen from us. *Now* let me "remember them that are in bonds as bound with them," since the rulers of mine own nation put me and mine in the power of the same destroyer.

Is it possible that such an act is framed and executed in this free republic, in the middle of the nineteenth century? What motive can have induced the legislature and the judicial courts so palpably to pervert the bill of rights, trample on human freedom, and outrage the moral sensibilities of the nation? The only answer is, *the Slaveocracy demands the sacrifice.* Their unrighteous domination and precious interests must be sustained, though the Union and the heavens fall. The whole system or practice is sustained, every where, by arbitrary might alone, at the sacrifice of every right. The despotism of the South demands that their sectional, tyrannical institution be *nationalized;* the servile North submits to the demand, bows down the neck, and begs that the peace of the Union may not be disturbed. This catching and enslaving of men by national authority and power, is a feature of slaveholding in entire harmony with every other feature of that abominable practice. The only difference is, that in this case the Slaveocracy have *inveigled and bullied the nation into entire asinine subserviency to their arbitrary demands.*

In the operation, therefore, of this national law, *behold the essential injustice of slaveholding.* Behold, also, the tyranny of a go-

vernment, purporting to be the most liberal and just under heaven. What legislature would dare put the debtor so entirely in the power of an offended creditor, with or without process of law? What community would endure a law which gave such facilities for the capture and punishment of one, *suspected by somebody* of being a thief? What judge could escape impeachment and ejection from office, who should deal thus summarily, partially and cruelly, even with the vilest malefactor? The fact is, even-handed justice needs no arbitrary power, asks no severe enactments, and can afford to guilt itself the free use of all the safeguards of freedom and right. Tyranny alone sets up arbitrary self-will for law, investigates in darkness, and decrees without regard to moral right. When, therefore, the Congress of the United States makes, and the courts execute a law of unparalleled severity, throwing out of the pale of humanity men whom they dare not declare to be criminal, they confess to unmasked despotism by those very deeds. And if men in power think they can innocently and safely commit such deeds, let them know that a free, intelligent, conscientious *people* cannot thus abjure every principle of freedom, equity and righteous government.

Therefore, while the acting government, in all its departments, has become the most despotic aggressor, and the people as a body sustain the government, it becomes every individual living soul to inquire whether *he* is or can be clear in this matter. What have *I* done to plunge my nation into this guilt and infamy? What have *I* failed to do that might have saved her from the gulf? What shall *I* now do for her salvation?

I. Consider, therefore, *what the public exigencies require of private citizens.*—I will judge no man's conscience. I will but answer for myself alone, and humbly ask the reader what good reason he can discover for taking any different course.

1. *I will render no voluntary obedience to these enactments in a single iota.* I cannot become a man-stealer, an oppressor, an inhuman tyrant over my equal fellow man. I will not make myself the slaveholder's bloodhound, or humble tool. I will not be a partaker

in my country's crimes, though she commands and threatens, and charges me with treason for obeying God rather than man.

2. I will, as occasion may arise, *transgress the law, and abide the consequences.* I will feed the hungry, and clothe the naked, and deliver the souls that are drawn unto death. I will "hide the outcast, and bewray not him that wandereth." The "outcasts shall dwell with" me; I will "be a covert to them from the face of the spoiler." By every peaceful effort, I will even "resist the power" which has become "a terror to good works," and *not* "to the evil." This is not a new and heretical doctrine. Albert Barnes says of the early Christians: "There were cases where it was right to *resist* the laws. This the Christian religion clearly taught; and, in cases like these, it was indispensable for Christians to take a stand. When the laws interfered with the rights of conscience, when they commanded the worship of idols or *any moral wrong,* then it was their duty to refuse submission. It could not be, and never was a question, whether they should obey a magistrate when he commanded any thing that was plainly contrary to the law of God."—Even the Slave State of Maryland has declared in its fundamental law: "The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind." I "refuse submission" to this iniquitous law, in whole and in every part. Its entire design and object are "plainly contrary to the law of God."

3. I will *bear a public testimony,* remonstrate, agitate, and put forth my efforts, till the obnoxious law shall be repealed, and the nation freed from the accursed system of oppression.—I know they bid me be silent. "The vexatious question is settled; the compromise is established; the periled Union is saved; the law shall stand unchanged, unless it be found too weak; the great parties have decreed a finality; and he is a traitor to his country who shall renew agitation, however, wherever, whenever it is done."—I hear the decree, but I cannot regard it. For many reasons, I cannot hold my peace. When a plain right is denied me, I will exercise it the of-

tener and defend it the louder. When I am bidden to neglect my duty to God and man, I will be all the more prompt to discharge it. And can I forbear to "open my mouth for the dumb, and plead for him that hath no helper?" No,

> "I cannot rest,
> A silent witness of the headlong rage,
> Or heartless folly, by which thousands die,
> Bone of my bone, and kindred souls to mine."

Nor can I be reckless of my own freedom, or that of my neighbors and my children, without forfeiting and periling the possession of the most precious earthly heritage. And finally, *an alternative is before me.* I must protest and toil against my country's doings, or I become *a personal partaker* in her foul oppressions. The act is passed and rigorously executed *in my name*, as one of the people. *My* hand, therefore, crushes my oppressed brother, and I "consent to the counsel and deed" of the immediate actors, unless I *speak* and my voice be *heard;* unless I *act* and my action be *felt.* Therefore, I will not cease to inculcate, in all my relations with men, the principles of national righteousness, now so fearfully abandoned. A slave-catcher can never have my aid, or an advocate of slavery my Christian fellowship, or a servile aspirant for office my vote. The Lord do so to me, and more also, if I thrust my hunted brother from my door, or lift a finger to help the pursuer, or sanction by word or deed, this infamous enactment. Let the united voice of the freemen of the North utter this sacred pledge, and the Bastile of oppression will soon fall to rise no more.

II. *How can this nation retrieve the errors of the past in this matter, and cease from national oppression and injustice?* By what methods may the people and the constituted authorities relieve the country of the supposed necessity of sustaining slavery and returning the fugitives? This is the all-engrossing political question of the day, and will be till the work is done, with the people of the North, both from the nature of the case, and from the manifest determination of the slaveocracy to subjugate the whole Union to

its arbitrary will. From the evidently just principles we have stated, it is easy to deduce righteous, peaceful, constitutional methods of relief; and they are various.

1. We have seen that slaveholding is practised in the Slave States in violation of the Federal Constitution; which, in its bill of rights, liberated all the slaves then being in the thirteen states, but was not suffered to take effect. Let the Constitution, then, be faithfully interpreted and applied, and there will be no slaves left in the Southern States, or reclaimed from the Northern.

2. But if they still insist that the subject was left with the several *States, then leave it with them entirely and forever, and withdraw from slavery the national shield of sanction and support, in every possible way.* If we, the people of the *nation*, have not the power to abolish it, we are under no shadow of an obligation to cherish it.

3. Let the famous clause of the Constitution be acknowledged to have no reference to escaping slaves, and the obnoxious acts of Congress be repealed, as essentially iniquitous and unconstitutional.

4. If it be still maintained that the clause of the Constitution requires the return of slaves, then either demand that it be stricken out by a regular amendment, or that it be declared by the people and the courts to be a dead letter, null and void. We must come to this issue, if need be. A part of a constitution which stands in direct and palpable opposition to its fundamental principles, to its bill of rights, to its very objects and aims, must be regarded as a nullity. If it be carried into effect, the Constitution is subverted, the free government falls, regulated freedom dies.

5. Tremendous responsibility rests in these times upon judges of federal courts, commissioners, and officers of the law. They can accomplish much for freedom and righteousness, even while the acts remain on the statute book. I am fully satisfied that they ought to take a decided stand; that even their oath to support the Constitution solemnly demands it. Nay, I believe every worthy judge in a Free State would do so if he were not "learned in the

law" of misty precedents, pro slavery constructions, and traditionary compromises with sin and Satan.

Were I in office as United States judge or commissioner, when such enactments were spread on the statute book, I should elect one of three courses of action. (1.) One would be to resign my office, assign my reason to the President, and publish it, and let the office go begging till a fit tool of tyranny could be found to execute the laws in their letter and spirit. Or, (2.) I would retain office, and refuse to grant or receive a warrant on the ground that the acts on which the claimant demands a trial are unconstitutional and without force. Or, (3.) I might even hear a case, and determine it according to law and equity, and the Constitution also. "With or without warrant," a claimant brings a person before me, whom he demands as one "held to service or labor under the laws" of another state. I require him to put his demand in appropriate terms. He shall say whether he means slaves when he says "persons held to service;" for I will have no sham suit, no double-dealing, no misnomer. If he says, "Yes, I demand him as a slave," I dismiss him and his suit instantly, with a salutary warning against kidnapping; for there is no law requiring the return of a slave; no statute or warrant so much as mentions a slave. If he says, "I claim not a slave, but a "person held to service," then I shall not hear any proof of his having owned a slave and lost a slave, for it would be altogether irrelevant to the case in court. And one is perfectly amazed to hear claimants and their witnesses and counsel talking of the slave that was owned, the slave that escaped, and the slave that is now identified before the court; also to hear a grave judge or commissioner listening to it, and weighing the evidence of ownership in the body and soul of a human being. It were ineffably ludicrous, if it were not a case of life and death with the helpless defendant. No, I would hear only testimony to show that the "person owes service or labor under the laws" of a Slave State, according to the very terms of the statute and the Constitution. But the claimant cannot produce laws of his state holding the defendant to

service or labor due to him. He cannot prove a claim upon the person as a freeman, legally bound to service. He will not attempt it, and I must dismiss the suit. Besides, if I heard a case, I would summon a jury, and give the accused all the advantages of a regular trial, a "due process of law." A judge who would thus magnify his office, would never be obliged to put the shackles on his fellow man. I believe he might occupy the bench a century and not be impeached.

Were courts and officers true to their country and the law of God, fugitives would be as secure in our Free States as in Canada; and slave-hunters would no more show their brazen faces among us.

III. It may be well to inquire here, what prohibitions or obligations the Federal Constitution lays upon the States, as such, in this matter. Evidently, the only prohibition is, that a State shall not make any "law or regulation," "in consequence of" which, a fugitive might "be discharged from such service or labor" as is "due" from him in another State. Of course, special laws for these specific cases must be meant, and not the bill of rights, and those laws which guard liberty and the rights of men. These the States are sacredly bound to preserve inviolate, and to see that they are effectually extended to every human being that comes under their shadow. The "person held to service or labor," not a slave, "shall be delivered up on claim, &c." The State must not hinder the delivery; but she is left to her own discretion, whether she will take an active part in that act. Even if she were bound to suffer *a slave* to be reclaimed, which can never be conceded, the Constitution prescribes no specific action for her, or her people, or her constituted agents.

IV. Even if it could be conceded that the Constitution does refer to slaves, still the present statutes should be everywhere rejected as unconstitutional, for many of the causes assigned; and the three following points should ever be kept in view; viz: at the very worst, we insist that there must be a real fugitive, a literal escape,

and a present claimant, or nothing can be done. Look at these points separately.

1. *A real fugitive.* The fugitive demanded must have escaped in person. He or she must have been held to service or labor. The children of fugitive mothers, born in a Free State where their mothers have long resided, have been claimed, and surrendered, and enslaved. They never were "held to service or labor," in slavedom; and even the act of Congress cannot be understood to include them, The judges who have surrendered such persons, have manifested a servility entirely gratuitous.

2. *A literal escape,* not constructive. "Escaping into another State." It is an act of the slave without the consent and against the will of the pretended owner. Formerly it was deemed sufficient if a slave were found in a Free State. No one inquired how he came there, nor was he allowed to say how. He must go back like a stray horse, or rather like a convict escaped from the penitentiary. At length some courts have had some return of common sense; and have decided that if an owner bring his slave into a Free State, or send him on business, or consent to his coming, then his claim is forfeited. If his man choose to stay here, there is no law to compel his return. Such a decision is evidently just, and ought to be every where understood and regarded.

3. *A present claimant.* All the crushing machinery of *the law,* which we have noticed, is entirely *without motion or power till the claimant comes* in person or by authorised attorney, and sets it in motion. "Shall be delivered up *on claim of the person* to whom such service or labor may be due." So run also the acts of 1793 and 1850. They authorize no one to "pursue and reclaim such fugitive persons," except "the person or persons to whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized, by power of attorney, in writing, acknowledged and certified under the seal of some legal office or court, &c." Clearly, therefore, a fugitive cannot legally be molested by any other person. A hundred slaves may come from Kentucky and dwell

among us in Ohio. The whole community may *know* that they are escaped slaves, and may "knowingly harbor and conceal" them; we may openly regard them as freemen, and help them on to Canada, or let them dwell for years among us, as free as ourselves. So doing, we commit no offence, even against this diabolical law. There is no power, state or national, which can touch one of them *until the claimant comes with his demand.* Till then it is not known to judges, or marshals, or citizens, that they will *ever* be demanded. They are not to *expect* such an invasion of human rights. They are bound rather to believe, that the disappointed Pharaohs will let the people go.

I am not aware that any writer has presented this point for consideration. I think, however, every fair mind will acknowledge its pertinence and force.

Now if this be so, persons concerned in various past transactions are more deeply involved in guilt than they are aware of. For instance, the mercenary wretches in Free States, who not only betray fugitives to actual pursuers, but notify them in the distant South and set them on the track; the officious traitors to humanity in Illinois, who imprisoned a company without authority, and sent a notice to their "owner;" the lawyer in New York City, who used to advertise in southern papers for clients, who would employ him to hunt their runaways; the sheriff in the same city, who kept for months a long list of names with descriptions, and prowled about among the colored people, searching for resemblances; and, last not least, the United States judge, who laid a heavy fine on a "good citizen" of Pennsylvania for the *constructive* concealment of a fugitive—for hiring and feeding him *before* he was claimed. It is not strange, I concede, that men should riot in wickedness *beyond* the law, when the law itself abjures all righteous law. But neither party can cover the heaven-daring iniquities of the other.

The Free States are false to themselves and to humanity, while they do not inflict exemplary punishment for deeds so atrocious within their several jurisdictions. Would this bring them into

collision with the slaveocracy, and even with the general government? Better contend with man, than with Him that "shall break in pieces the oppressor." But the north and the south *are* in collision *now*, and *will be*, so far and so long as the former maintains any stand for freedom and righteousness, and the latter claims that the nation is obliged to sustain oppression and injustice. Let the conflict continue. True men need not fear, contending for the truth. Free States need not fear, having the Federal Constitution itself on their part, and the law of God as their unerring guide.

We do not deny to our southern fellow-citizens a single natural right; not one of all that we claim for ourselves. We only insist that regulated freedom does not include the liberty of oppressing others; that we are under no obligation to aid them in such a deed; that they exercise high-handed oppression upon *us*, when they demand our aid or connivance in the matter; that no existing compact, no righteous constitution that can be formed, can impose the least obligation on the nation to sustain slave-holding or slave-catching. We do not ask them to release us from their bonds. We assert our right and liberty to disobey and resist them. We will also faithfully warn them to do their part in redeeming our common country from guilt and infamy. Let them no more hunt fugitives in a Christian land; but with alacrity and delight, "break every yoke, and let the oppressed go free."

Alas, how long is this salvation delayed. Our second year of jubilee is drawing near, and the freedom trumpet is not heard. Despair settles down on increasing millions in bonds. Slave-holders are yet more mad upon their idols, and have subjected the nation to their will. The wretched fugitive makes his way to the region of *freedom*, and behold it is all an open hunting ground for his bloody mouthed pursuers. This great nation builds him no city of refuge. A glorious free state can afford him no asylum. The church bids him not flee to the horns of her altar. Some Quaker rebel may give him a shelter for a night; but the pursuer and the almighty law seize him in the morning. His last coal is quenched;

his last faint hope has expired. He sinks to the earth, exclaiming, *'I looked on my right hand and beheld, but there was no man that would know me; refuge failed me; no man cared for my soul." O give me a place in the grave, "where the wicked cease from troubling, and the weary are at rest."*

That man is my neighbor, my brother, a soul for whom Christ *my* Savior, died. Do I pass by on the other side, when I see him fallen among men-stealers? Do I fail to do all that I can, to "rid him out of the hand of the wicked?" Do I "*forbear* to deliver them that are drawn unto death, and those that are ready to be slain?" "What then shall I do when God riseth up; and when he visiteth what shall I answer him?" when he shall say, "Inasmuch as ye did it *not* to one of the least of these, my brethren, ye did it *not* to me."

O who shall "find mercy of the Lord in that day?"

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